

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSE ROJAS-GONZALEZ,

Defendant.

No. 05-CR-4087-DEO

**ORDER REGARDING REPORT AND
RECOMMENDATION CONCERNING
GUILTY PLEA**

I. INTRODUCTION AND BACKGROUND

On July 29, 2005, a 1 Count Information (Docket No. 1) was returned against defendant Jose Rojas-Gonzalez.

Count 1 of that Information charges that on or about July 20, 2005, in the Northern District of Iowa, the defendant, Jose Rojas-Gonzalez, an alien who had been previously removed from the United States on or about August 2, 1984; was found, knowingly and unlawfully, in the United States, in Buena Vista County, after re-entering the United States without first obtaining the consent to apply for readmission into the United States from either the United States Attorney General or Secretary for Homeland Security, all in violation of Title 8, United States Code, Section 1326(a). The Information further states that notice is given that the defendant was convicted of possession of a controlled substance: heroine, in the

Superior Court of the State of Washington in and for Yakima County on July 13, 1984, and sentenced to 30 days confinement and 5 years probation.

On August 2, 2005, defendant Jose Rojas-Gonzalez appeared before United States Magistrate Judge Paul A. Zoss and entered a plea of guilty to Count 1 of the Information. On the same date, Judge Zoss filed a Report and Recommendation (Docket No. 7) in which he recommends that defendant Jose Rojas-Gonzalez's guilty plea be accepted. A Statement of Non-Objection To Report and Recommendation was filed by counsel for the defendant on August 2, 2005 (Docket No. 8). The Court, therefore, undertakes the necessary review of Judge Zoss's recommendation to accept defendant Jose Rojas-Gonzalez's plea in this case.

II. ANALYSIS

A. Standard of Review

Pursuant to statute, this Court's standard of review for a magistrate judge's Report and Recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings

or recommendations made by the magistrate [judge].

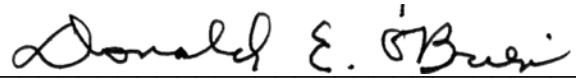
28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Civil Procedure 72(b) provides for review of a magistrate judge's Report and Recommendation on dispositive motions and prisoner petitions, where objections are made as follows:

The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommendation decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b).

In this case, objections were waived, and it appears to the Court upon review of Judge Zoss's findings and conclusions that there are no grounds to reject or modify them. Therefore, the Court accepts Judge Zoss's Report and Recommendation (Docket No. 7), and accepts defendant Jose Rojas-Gonzalez's plea of guilty in this case to Count 1 of the Information filed on July 29, 2005.

IT IS SO ORDERED this 3rd day of November, 2005.

A handwritten signature in black ink, reading "Donald E. O'Brien". The signature is written in a cursive style with a horizontal line underneath.

Donald E. O'Brien, Senior Judge
United States District Court
Northern District of Iowa